

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA)
v.)
KEVIN MCAVENIA,) Case No. 1:22-MJ-92
Defendant.)

)

CONSENT MOTION TO EXTEND TIME FOR INDICTMENT

The United States of America, by and through undersigned counsel, and with the express consent of the defendant, and the defendant's counsel, respectfully move the Court to extend the time to indict this case by 30 days, through and including June 16, 2022. In support thereof, the United States provides the following:

1. On April 20, 2022, the defendant was arrested pursuant to an arrest warrant and criminal complaint charging him with one count of receipt of child pornography, in violation of 18 U.S.C. § 2252(a)(2). The defendant made his initial appearance in the Eastern District of Virginia the same day, and a preliminary hearing and detention hearing was set for April 21, 2022.
2. On April 21, 2022, the parties appeared before the Honorable Ivan D. Davis, United States Magistrate Judge for the Eastern District of Virginia, for the preliminary hearing and detention hearing. The defendant appeared with his retained counsel. The Honorable Judge Davis ordered the defendant released on pretrial conditions pending further legal proceedings.
3. The Speedy Trial Act requires that the defendant be indicted within thirty days of the defendant's arrest. A conservative estimate of the indictment deadline in this matter, not taking into account excludable time, is May 20, 2022. The United States, with the consent of the

defendant, requests that the Court extend the time to indict this case through and including June 16, 2022. Extending this deadline to June 16, 2022 would be in the best interests of justice because it would provide the parties with additional opportunity to review the large quantity of forensic evidence in this matter—including child pornography evidence which must remain in the government's possession—and to discuss the possibility of a pre-indictment resolution.

4. The defendant hereby agrees to waive any objections under the Speedy Trial Act and to extend the government's time to file an indictment in this case through and including June 16, 2022. The waiver is made knowingly, intentionally, and voluntarily by the defendant, and with full knowledge of the provisions of the Speedy Trial Act, Title 18, United States Code, Sections 3161, *et seq.*, and with the advice and consent of counsel.

5. The defendant expressly understands that his waiver is not predicated upon any promises, agreements, or understandings of any kind between the government and the defense in this case, and that nothing contained herein shall be construed to preclude the government from proceeding against the defendant during or after the time period covered by this waiver.

WHEREFORE, the United States, with the defendant's consent, respectfully requests that the time to indict this case be extended to and including June 16, 2022.

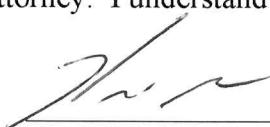
Respectfully submitted,

Jessica D. Aber
United States Attorney

By: Rachel Rothberg
Rachel L. Rothberg
Special Assistant United States Attorney (LT)
Jonathan S. Keim
Assistant United States Attorney

Defendant's Signature: I hereby agree that I have consulted with my attorney and fully understand all my rights with respect to a speedy trial, including my right to be charged by indictment within 30 days of arrest, as required by Title 18, United States Code, Section 3161(b). I have read this motion for an extension of time to be charged by indictment, and carefully reviewed every part of it with my attorney. I understand this motion and voluntarily agree to it.

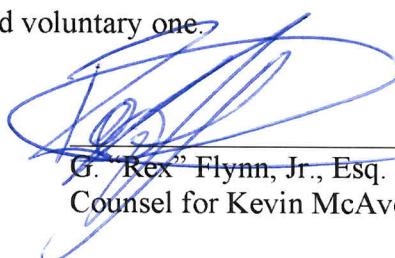
Date: 4/22/22



Kevin McAvenia
Defendant

Defense Counsel's Signature: I am counsel for Kevin McAvenia in this case. I have fully explained to the defendant the defendant's right to be charged by indictment within 30 days of arrest. Specifically, I have reviewed the terms and conditions of Title 18, United States Code, Section 3161(b), and I have fully explained to the defendant the provisions that may apply in this case. To my knowledge, the defendant's decision to agree to an extension of time to be charged by indictment is an informed and voluntary one.

Date: 4/22/22



G. "Rex" Flynn, Jr., Esq.
Counsel for Kevin McAvenia